

Stephen D. Bell

**DORSEY & WHITNEY LLP**

Millennium Building

125 Bank Street, Suite 600

Missoula, Montana 59802-4407

bell.steve@dorsey.com

Phone: (406) 721-6025

Fax: (406) 543-0863

Ben D. Kappelman

**DORSEY & WHITNEY LLP**

Suite 1500, 50 South Sixth Street

Minneapolis, MN 55402-1498

kappelman.ben@dorsey.com

Phone: (612) 492-6744

Fax: (612) 395-5451

*Attorneys for Defendant National  
Oilwell Varco, L.P.*

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MONTANA  
HELENA DIVISION**

DRAKE WATER TECHNOLOGIES,  
INC.,

Plaintiff,

vs.

NATIONAL OILWELL VARCO, L.P.,

Defendant.

Cause No.: \_\_\_\_\_

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant National Oilwell Varco, L.P. (“NOV”) hereby removes the above-captioned action from the Montana First Judicial District Court, Lewis & Clark County, to the United States District Court for the District of Montana, Helena Division. In doing so, NOV states as follows:

### **PROCEDURAL HISTORY**

1. This civil action, commenced on February 23, 2017, was originally filed in the Montana First Judicial District Court, Lewis & Clark County, a court located within this District, under Case Number BDV 2017-144 (the “State Court Action”).

2. NOV was served with a Summons and Complaint in the State Court Action on February 27, 2017.

### **DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332**

3. This Court has jurisdiction over this action under 28 U.S.C. § 1332, on the basis of diversity jurisdiction.

4. NOV is a Delaware limited partnership. Affidavit of Brigitte Hunt (“Hunt Aff.”) ¶ 3, attached hereto as **Exhibit A**. The sole general partner in NOV is NOW Oilfield Services, LLC, a Delaware limited liability company. *Id.* The sole limited partner in NOV is NOV TV2 LLC, a Delaware limited liability

company. NOV GP Holding, L.P. is the sole member of NOW Oilfield Services, LLC and NOV TV2 LLC. *Id.* NOV GP Holding, L.P. is a Delaware limited partnership. Hunt Aff. ¶ 4. The sole general partner in NOV GP Holding, L.P. is NOV GP1 Holding, LLC, a Delaware limited liability company. *Id.* The sole limited partner in NOV GP Holding, L.P. is Grant Prideco, Inc., a Delaware corporation. *Id.* The sole member of NOV GP1 Holding, LLC is Grant Prideco, Inc. *Id.* The sole shareholder of Grant Prideco, Inc. is National Oilwell Varco, Inc., a Delaware corporation and publicly traded company. Hunt Aff. ¶ 5. All of the foregoing entities have their headquarters and principal places of business in Houston, Texas, where their high-level officers direct, control, and coordinate the entities' activities. Hunt Aff. ¶ 6. Therefore, for purposes of diversity jurisdiction, NOV is a citizen of Delaware and Texas.

5. Plaintiff Drake Water Technologies, Inc. ("Plaintiff") is a Montana corporation. Its principal place of business is in Helena, Montana. Complaint ¶ 2. Therefore, for purposes of diversity jurisdiction, Plaintiff is a citizen of Montana.

6. The parties in this action are citizens of different states, satisfying the diversity requirements under 28 U.S.C. § 1332(c)(1). *See also Hertz Corp. v. Friend*, 559 U.S. 77, 92-93 (2010).

7. Plaintiff's demand for judgment seeks as relief, among other things, damages in excess of \$1,000,000. *See* Complaint ¶ 25.

8. Although NOV denies Plaintiff's factual allegations and deny Plaintiff is entitled to any of the relief it seeks, the "matter in controversy" exceeds the jurisdictional minimum of \$75,000 set forth in 28 U.S.C. § 1332(a), exclusive of interest or costs, and therefore vests this Court with jurisdiction based on 28 U.S.C. § 1332.

### **PROCEDURAL REQUIREMENTS**

9. In accordance with 28 U.S.C. § 1446, NOV is filing this Notice of Removal within thirty (30) days of being served with process in this action. Removal is therefore timely under 28 U.S.C. § 1446(b).

10. Venue of this removal is proper under 28 U.S.C. § 1441(a) because this Court is the United States District Court for the district corresponding to the location where the state court action is pending.

11. After filing this Notice of Removal, Defendant will promptly serve written notice of this Notice of Removal on Plaintiff's counsel and file a Notice of Filing Notice of Removal, attaching a copy of this Notice of Removal, with the Clerk in Montana First Judicial District Court, Lewis & Clark County, in accordance with 28 U.S.C. § 1446(d) and Rule 3.3 of the Local Rules of Procedure of the District of Montana.

12. True and correct copies of all process, pleadings, and orders served on NOV in the State Court Action are attached hereto as **Exhibit B**. No other

pleadings, process, orders or other documents in the case have been served or otherwise received by the Defendant or, to the Defendant's knowledge, are presently on file in the State Court Action. In the event such filings come to Defendant's attention, true and legible copies will immediately be filed with this Court.

**NON-WAIVER OF DEFENSES**

13. Defendant removes this action without waiver of or prejudice to any defenses that may be asserted in this action, including without limitation defenses under Federal Rule of Civil Procedure 12(b) (or the Montana state equivalents), such as objections to lack of service and/or personal jurisdiction.

14. By removing this action from the Montana First Judicial District Court, Lewis & Clark County, NOV does not admit any of the allegations contained within Plaintiff's complaint.

**WHEREFORE**, notice is given that this action is removed from the Montana First Judicial District Court, Lewis & Clark County, to the United States District Court for the District of Montana, Helena Division.

Dated this 28th day of March, 2017.

Respectfully submitted,

**DORSEY & WHITNEY LLP**

s/ Ben D. Kappelman  
Stephen D. Bell  
bell.steve@dorsey.com  
Suite 400, 1400 Wewatta Street  
Denver, CO 80202-5549  
Ben D. Kappelman  
kappelman.ben@dorsey.com  
50 South Sixth Street, Suite 1500  
Minneapolis, MN 55402-1498

*Attorneys for Defendant National Oilwell  
Varco, L.P.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 28th day of March, 2017, the foregoing NOTICE  
OF REMOVAL was served via U.S. mail and electronic mail upon the following:

Roy H. Andes  
Law Office of Roy Andes  
1401 Cedar Street  
Suite 7  
Missoula, Montana 59802  
406-431-0869  
RA@RoyAndes.com

s/ Ben D. Kappelman  
Ben D. Kappelman